

Federal Communications Commission

FCC 97-303

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)	
)	
Procedures for Reviewing Requests for)	WT Docket No. 97-197
Relief From State and Local Regulations)	
Pursuant to Section 332(c)(7)(B)(v) of the)	
Communications Act of 1934)	
)	
Guidelines for Evaluating the Environmental)	ET Docket No. 93-62
Effects of Radio frequency Radiation)	
)	
Petition for Rulemaking of the Cellular)	
Telecommunications Industry Association)	RM-8577
Concerning Amendment of the Commission's)	
Rules to Preempt State and Local Regulation)	
of Commercial Mobile Radio Service)	
Transmitting Facilities)	

COMMENTS OF THE PARISH OF JEFFERSON, STATE OF LOUISIANA

Jefferson Parish is a Home Rule Charter entity in the Greater New Orleans Metropolitan Statistical Area in the State of Louisiana. Under its Charter, Jefferson Parish exercises general police powers and is further empowered to prepare, enact, and enforce comprehensive zoning plans for the development of the Parish and for zoning purposes and to prepare, enact, and enforce uniform building and related technical codes.

Jefferson Parish exercises such powers through its Planning Department, its Planning Advisory Board, its Zoning Appeals Board, and ultimately the Parish Council. Jefferson Parish is

further empowered under its Charter to provide fire, police and public safety services and to develop, maintain and operate emergency communication systems. Jefferson Parish provides an emergency and public safety communication system through its Office of Communications and its 911 Communications District.

Jefferson Parish's emergency and public safety communication system is used on a daily basis by 50 public service agencies within Jefferson Parish, including its emergency medical districts and its fire and police departments, and those of its incorporated municipalities and for other emergency management purposes, including flood and hurricane protection measures, environmental emergencies, animal control purposes, drainage, sewerage, and drinking water management services, and health inspection and code enforcement services.

Jefferson Parish opposes the proposed rule herein.

Jefferson Parish understands that the proposed rule would prohibit Jefferson Parish, its Boards and Departments from requiring, as a condition of zoning approval, that cellular telecommunication service providers conduct measurements to determine whether or not antenna radiation is within FCC promulgated limits. Jefferson Parish avers that it does not have the financial or technical resources to conduct such measurements.

Jefferson Parish avers that its existing and certain proposed zoning regulations encourage or may require in the future the collocation of cellular and digital communication facilities. The

multiple collocation of such facilities will result in the increased possibility that combined radiation levels will exceed FCC standards even though individual licensees may meet such standards. Absent a requirement for provider measurement, and given its lack of financial and technical resources impermissible levels of radiation may go undetected by Jefferson Parish.

Jefferson Parish further avers that the operation of its emergency and public safety communication network may be degraded through interference by excessive antenna radiation. Jefferson Parish further avers that without the ability to require of telecommunication providers the measurement of antenna radiation, Jefferson Parish will not be forewarned of the potential degradation of its emergency and public safety communications network.

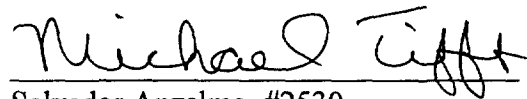
Jefferson Parish avers that its citizens are concerned with antenna radiation and that the proposed rule undermines Jefferson Parish's exercise of police and zoning power to address those concerns under its Home Rule Charter. Jefferson Parish further avers that the proposed rule would create a situation in which the FCC could "second guess" Jefferson Parish zoning determinations by assuming that an otherwise legally acceptable zoning decision was grounded on antenna radiation concerns where the record may reflect that such concerns were raised by citizens, but were not actually made the basis for the zoning determination. Such a situation would act to "chill" the right of citizens and elected officials to raise such concerns.

Jefferson Parish further avers that the proposed rule would place the FCC in an impermissible conflict of issue position, in that the FCC is mandated to auction off cellular spectrum and the

proposed rule would make such spectrum more attractive to potential buyers but would place the FCC in a position of weakened enforcement of its radiation standards where localities are not permitted to require the measurement of radiation as a condition of zoning approval.

Accordingly, Jefferson Parish prays that its comments be received by the Commission, that it be accorded all rights customarily accorded to parties commenting on proposed rulemakings, and that it receive notice of future actions of the Commission in these regards.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael W. Tiff", is written over a horizontal line.

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